

§ 225.102

Federal Reserve Act, in stock of companies holding their bank premises; and such a result was not, in the Board's opinion, intended by the Bank Holding Company Act.

[21 FR 10472, Dec. 29, 1956. Redesignated at 36 FR 21666, Nov. 12, 1971]

§ 225.102 Bank holding company indirectly owning nonbanking company through subsidiaries.

(a) The Board of Governors has been requested for an opinion regarding the exemptions contained in section 4(c)(5) of the Bank Holding Company Act of 1956. It is stated that Y Company is an investment company which is not a bank holding company and which is not engaged in any business other than investing in securities, which securities do not include more than 5 per centum of the outstanding voting securities of any company and do not include any asset having a value greater than 5 per centum of the value of the total assets of X Corporation, a bank holding company. It is stated that direct ownership by X Corporation of voting shares of Y Company would be exempt by reason of section 4(c)(5) from the prohibition of section 4 of the Act against ownership by bank holding companies of nonbanking assets.

(b) It was asked whether it makes any difference that the shares of Y Company are not owned directly by X Corporation but instead are owned through Subsidiaries A and B. X Corporation owns all the voting shares of Subsidiary A, which owns one-half of the voting shares of Subsidiary B. Subsidiaries A and B each own one-third of the voting shares of Y Company.

(c) Section 4(c)(5) is divided into two parts. The first part exempts the ownership of securities of nonbanking companies when the securities do not include more than 5 percent of the voting securities of the nonbanking company and do not have a value greater than 5 percent of the value of the total assets of the bank holding company. The second part exempts the ownership of securities of an investment company which is not a bank holding company and is not engaged in any business other than investing in securities, provided the securities held by the invest-

12 CFR Ch. II (1-1-11 Edition)

ment company meet the 5 percent tests mentioned above.

(d) In § 225.101, the Board expressed the opinion that the first exemption in section 4(c)(5):

* * * is as applicable to such shares when held by a banking subsidiary of a bank holding company as when held directly by the bank holding company itself. While the exemption specifically refers only to shares held or acquired by the bank holding company, the prohibition of the Act against retention of nonbanking interests applies to indirect as well as direct ownership of shares of a nonbanking company, and, in the absence of a clear mandate to the contrary, any exception to this prohibition should be given equal breadth with the prohibition. Any other interpretation would lead to unwarranted results.

(e) The Board is of the view that the principles stated in that opinion are also applicable to the second exemption in section 4(c)(5), and that they apply whether or not the subsidiary owning the shares is a banking subsidiary. Accordingly, on the basis of the facts presented, the Board is of the opinion that the second exemption in section 4(c)(5) applies to the indirect ownership by X Corporation of shares of Y Company through Subsidiaries A and B.

[22 FR 2533, Apr. 13, 1957. Redesignated at 36 FR 21666, Nov. 12, 1971]

§ 225.103 Bank holding company acquiring stock by dividends, stock splits or exercise of rights.

(a) The Board of Governors has been asked whether a bank holding company may receive bank stock dividends or participate in bank stock splits without the Board's prior approval, and whether such a company may exercise, without the Board's prior approval, rights to subscribe to new stock issued by banks in which the holding company already owns stock.

(b) Neither a stock dividend nor a stock split results in any change in a stockholder's proportional interest in the issuing company or any increase in the assets of that company. Such a transaction would have no effect upon the extent of a holding company's control of the bank involved; and none of the five factors required by the Bank Holding Company Act to be considered

by the Board in approving a stock acquisition would seem to have any application. In view of the objectives and purposes of the act, the word “acquire” would not seem reasonably to include transactions of this kind.

(c) On the other hand, the exercise by a bank holding company of the right to subscribe to an issue of additional stock of a bank could result in an increase in the holding company’s proportional interest in the bank. The holding company would voluntarily pay additional funds for the extra shares and would “acquire” the additional stock even under a narrow meaning of that term. Moreover, the exercise of such rights would cause the assets of the issuing company to be increased and in a sense, therefore, the “size or extent” of the bank holding company system would be expanded.

(d) In the circumstances, it is the Board’s opinion that receipt of bank stock by means of a stock dividend or stock split, assuming no change in the class of stock, does not require the Board’s prior approval under the act, but that purchase of bank stock by a bank holding company through the exercise of rights does require the Board’s prior approval, unless one of the exceptions set forth in section 3(a) is applicable.

[22 FR 7461, Sept. 19, 1957. Redesignated at 36 FR 21666, Nov. 12, 1971]

§ 225.104 “Services” under section 4(c)(1) of Bank Holding Company Act.

(a) Section 4(c)(1) of the Bank Holding Company Act, among other things, exempts from the nonbanking divestment requirements of section 4(a) of the Act shares of a company engaged “solely in the business of furnishing services to or performing services for” its bank holding company or subsidiary banks thereof.

(b) The Board of Governors has had occasion to express opinions as to whether this section of law applies to the following two sets of facts:

(1) In the first case, Corporation X, a nonbanking subsidiary of a bank holding company (Holding Company A), was engaged in the business of purchasing installment paper suitable for investment by banking subsidiaries of

Holding Company A. All installment paper purchased by Corporation X was sold by it to a bank which is a subsidiary of Holding Company A, without recourse, at a price equal to the cost of the installment paper to Corporation X, and with compensation to the latter based on the earnings from such paper remaining after certain reserves, expenses and charges. The subsidiary bank sold participations in such installment paper to the other affiliated banks of Holding Company A which desired to participate. Purchases by Corporation X consisted mainly of paper insured under Title I of the National Housing Act and, in addition, Corporation X purchased time payment contracts covering sales of appliances by dealers under contractual arrangements with utilities, as well as paper covering home improvements which was not insured. Pursuant to certain service agreements, Corporation X made all collections, enforced guarantees, filed claims under Title I insurance and performed other services for the affiliated banks. Also Corporation X rendered to banking subsidiaries of Holding Company A various accounting, statistical and advisory services such as payroll, life insurance and budget loan installment account.

(2) In the second case, Corporation Y, a nonbanking subsidiary of a bank holding company (Holding Company B, which was also a bank), solicited business on behalf of Holding Company B from dealers, throughout several adjoining or contiguous States, who made time sales and desired to convert their time sales paper into cash; but Corporation Y made no loans or purchases of sales contracts and did not discount or advance money for time sales obligations. Corporation Y investigated credit standings of purchasers obligated on time sale contracts to be acquired by Holding Company B, Corporation Y received from dealers the papers offered by them and inspected such papers to see that they were in order, and transmitted to Holding Company B for its determination to purchase, including, in some cases, issuance of drafts in favor of dealers in order to facilitate their prompt receipt